

WETLANDS COUNCIL

MINUTES

April 12, 2011

The Wetlands Council met on Tuesday, April 12, 2011 in Rooms 112, 113, & 114 at the Department of Environmental Services, 29 Hazen Drive, Concord, NH

Attendees: Chairman Chip Kimball, Councilors: Larry Ballin, Ryan Crosbie, Larry Morse, Dari Sassan, Seth Prescott, Russ St. Pierre, Thomas Sloan, and David Thompson

Absentees: Councilors: Sharon Champagne and Carol Henderson

Also present were: Amy Samson, Council Appeals Clerk and Carolyn Guerdet, Council Clerk.

The regular Wetlands Council meeting was called to order by Chairman Kimball at 8:55 a.m. with introductions and a quorum present.

1. Approval of Minutes

- ***Councilor Thompson made a motion to accept the March 8, 2011 minutes as corrected, second by Councilor Ballin. Motion passed unanimously.***

2. Wetlands Bureau Update

Collis Adams, Wetlands Bureau Administrator

There has not been much change in bureau operations with staffing and budget having remained the same. A small upswing has occurred in wetland applications in the last few weeks. Shoreland applications are remaining at the same level.

Legislation – crossover has occurred. HB 230, passed and is in Senate, there will be a Letter of Testimony (LoT). HB 321, retained in House. HB 468 - assessment rate set at 10% with no sun setting, passed House with the amendment and going to Senate. HB 470 – retained in House. HB 621 – also sets up a legislative subcommittee to review stream crossing rules. SB 19 – DES has no position, a subcommittee has been set up with ongoing discussions. SB 20 regarding Wetlands/Alteration of Terrain permits. SB 21 – passed with amendment out of Senate. SB 38 – extension for wetlands/shoreland permits. SB 142 – integrated permitting initiative. SB 144- identical to 38, DES supports.

Chairman Kimball would like to have a discussion in a future meeting about the abutter notification review process. Councilor Prescott expressed that DRED has concerns about HB 621 - that the abutters aren't being notified when a culvert is being increased in size. Those downstream are affected and are not prepared to deal with the extra water.

Council took a recess to Deliberate Porter Trust at 9:21.

Return to regular meeting at 9:27.

Draft of annual report written by Chairman Kimball distributed. Comments can be passed on to Chairman Kimball. 19 appeals received this past year, with a large number of hearings and PHCs held.

When PHCs are schedule the appellants that show are those that want a permit and those under an administrative order or fighting a permit don't show up. The process now set up is once a PHC is set, a letter will be sent out, if they want to delay they have to make a motion to the hearing officer so there is a record of who is trying to delay. It can then be dismissed due to non-participation. We need a log for a backup along with the rules. If motion comes in to continue a PHC and appellants don't show up it will be dismissed.

3. Review of Proposed Legislation

4. Status of Appeals

Amy Sampson, Appeals Clerk

I. New Appeals

Docket No. 11-03 WtC Joseph and Patricia DeVelis

Subject: 01/25/11 Administrative Order No. 11-002 WD

Presiding Officer: Not Assigned

Status: Council to vote whether or not to accept the appeal as administrative order has been received.

- ***Councilor Morse made a motion to accept the appeal, second by Councilor Thompson. Motion passed unanimously.***

II. Decisions that need to be written/finalized and issued.

Docket No. 06-11 WtC - Dennis Proulx

Subject: 07/13/06 Decision on Reconsideration Denial, Wetlands File No. 2006-00769

Presiding Officer: Larry Morse

Status: Council granted the Assented-To Motion to Dismiss. A decision and order needs to be finalized.

III. Hearings or PHCs scheduled.

Docket No. 08-04 WtC - Porter Trust

Subject: 12/12/07 Decision on Reconsideration, Wetlands File No. 2006-02705

Presiding Officer: Chip Kimball (assigned by AGO on January 5, 2011)

Status: A Motion hearing was held on January 11, 2011 at 10:00 a.m. and deliberations were delayed until today. Due to the issuance of 2010-03364 Permit, deliberations will be delayed indefinitely until it is known how that will affect the current appeal.

Docket No. 09-07 WtC and 09-08 WtC - Lake Sunapee Protective Association (LSPA) and Town of Newbury

Subject: 1/7/09 Shoreland Impact Permit issued by DES to the NH Fish and Game for the Wild Goose Site in Newbury.

Presiding Officer: Larry Morse (assigned by AGO)

Recused: Larry Ballin, Carol Henderson

Status/Action: A hearings were held on October 12, 2010; October 26, 2010; November 9, 2010; and December 14, 2010. Deliberations were held on March 8, 2011 and are continued today at 10 a.m.

Docket No. 9-25 WtC - Town of Hooksett

Subject: 5/11/09 Wetlands and Non-Site Specific Permit, Permit No. 2008-02016

Presiding Officer: Chip Kimball (assigned by AGO on October 27, 2010)
Recused: Larry Morse
Status: **A hearing is scheduled for August 23, 2011 at 9:00 a.m.**

Docket No. 09-35 WtC – Town of Newbury

Subject: 9/18/09 Decision on Reconsideration, Wetlands File No. 2008-02781
Presiding Officer: Larry Morse (assigned by AGO)
Recused: Larry Ballin, Carol Henderson
Status/Action: A hearings were held on October 12, 2010; October 26, 2010; November 9, 2010; and December 14, 2010. Deliberations were held on March 8, 2011 and are continued today at 10 a.m.

Docket No. 09-36 WtC – Brendan and Dana Keegan

Subject: Administrative Order No. 09-22 WD dated April 6, 2009
Presiding Officer: Dave Thompson
Status: A PHC is scheduled for April 27, 2011 at 12:00 p.m.

Docket No. 09-44 WtC – Thomas and Joan DiPace

Subject: 10/13/09 Administrative Order No. 09-082 WD
Presiding Officer: Chip Kimball (assigned by AGO on October 27, 2010)
Status/Action: A PHC was held on January 26, 2011. **A hearing is scheduled for May 10, 2011 at 9:00 a.m. Please note that the regular business meeting will start at 8:00 a.m.**

Docket No. 10-03 WtC – Richard and Donna Mills Appeal

Subject: 1/5/10 Decision on Reconsideration, Wetlands File No. 2009-01534
Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)
Status: PHC was held on February 23, 2011 at 9:00 a.m. **Hearing scheduled for July 12, 2011 at 10:00 a.m.**

Docket No. 10-08 WtC – Robert Reich

Subject: 4/19/10 Decision on Reconsideration, Wetlands File No. 2009-02050
Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)
Status: PHC was held on February 23, 2011 at 10:30 a.m. **A hearing is scheduled for June 14, 2011 at 10:00 a.m.**

Docket No. 10-10 WtC – Donald Lee

Subject: 5/23/10 Decision on Reconsideration, Wetlands File No. 2008-01253
Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)
Status: A PHC is scheduled for April 27, 2011 at 2:00 p.m.

Docket No. 10-12 WtC – Provencal One Family Trust

Subject: 6/4/10 Administrative Order No. 10-013 WD
Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)
Status: A PHC was held on February 23, 2011. **A hearing is scheduled for June 28, 2011 at 8:00 a.m.**

Docket No. 10-14 WtC – Akwa Marina Yacht Club

Subject: 6/11/10 Decision on Reconsideration, Wetlands File No. 2009-01047
Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)
Status: A PHC is scheduled for April 27, 2011 at 10:00 a.m.

Docket No. 10-17 WtC – Sunset Ranch Camp, Inc.

Subject: Decision on Shoreland Permit Application, Wetlands File No. 2010-00690

Presiding Officer: Ryan Crosbie

Status: **A hearing is scheduled for July 26, 2011 at 9 a.m.**

Docket No. 10-18 WtC – MRAC LLC and Merchants Plaza, LLC

Subject: Application of NH Dept. of Transportation, Wetlands File No. 2010-00224

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: A PHC is scheduled for April 27, 2011 at 11:00 a.m.

Docket No. 10-19 WtC – Grouse Point Club

Subject: Decision on Reconsideration Denial, Wetlands File No. 2010-00808

Presiding Officer: Chip Kimball (assigned by AGO on January 26, 2011)

Status: A PHC is scheduled for April 27, 2011 at 10 a.m.

Docket No. 10-20 WtC – Robert Pinato

Subject: August 19, 2010 Administrative Order, Administrative Order No. 10-025 WD

Presiding Officer: Ryan Crosbie

Status: A PHC is scheduled April 27, 2011 at 12:00 p.m.

Docket No. 10-24 WtC – Sunset Ranch Camp, Inc.

Subject: Standard Dredge and Fill Permit, Wetlands File No. 2010-00764

Presiding Officer: Ryan Crosbie

Status: **A hearing is scheduled for July 26, 2011 at 9 a.m.**

Docket No. 10-23 WtC – Charles and Patricia Sem

Subject: Administrative Order No. 10-033 WD dated September 21, 2010

Presiding Officer: Ryan Crosbie

Status: A PHC is scheduled for April 27, 2011 at 2:00 p.m.

IV. Previously pending cases.

Docket No. 07-09 WtC - Derry Conservation Commission

Subject: 4/24/07 Decision on Reconsideration Denial, Wetlands File No. 2006-00773

Presiding Officer: Seth Prescott (assigned by AGO)

Status: Another Pre Hearing Conference(PHC) will need to be rescheduled.

Docket No. 08-13 WtC - Jeffrey Costura

Subject: 1/25/08 Decision on Reconsideration, Wetlands File No. 2007-01416

Status: Appeal has been withdrawn.

Docket No. 08-53 WtC - Vintage Trust c/o Enthusiasts, Inc.

Subject: 8/7/08 Decision on Reconsideration Denial, Wetlands File No. 2006-01506

Presiding Officer: Ryan Crosbie

Status: The appellant said negotiation discussions occurred 6-8 months ago but hasn't heard anything back from the Wetlands Bureau. The appellant wants another pre-hearing conference scheduled.

Docket No. 08-55 WtC - Tracy Middleton Revocable Trust of 1992

Subject: 9/12/08 Reconsideration Denial, Wetlands File No. 2002-2087

Presiding Officer: David Thompson

Status: Please schedule another pre-hearing conference.

Docket No. 09-01 WtC - Kevin Price d/b/a Ossipee Lake Marina

Subject: 12/9/08 Administrative Order

Presiding Officer: Larry Morse (assigned by AGO on October 27, 2010)

Status: The parties are close to a settlement agreement and assented to a continuance of the hearing until the appeal is withdrawn. Request a status report.

Docket No. 09-09 WtC - Christopher and Sally Norton

Subject: 01/09/09 Reconsideration Denial, Wetlands File No. 2008-01265

Status: Appeal has been withdrawn.

Docket No. 09-20 WtC - Dana Belletete

Subject: 3/26/09 Request for Reconsideration Denial, Wetlands File No. 2009-00366

Presiding Officer: Chip Kimball

Status: Appellant wants a pre-hearing conference scheduled. Appellant claims to have submitted a second appeal, which was not received by the clerk. Appellant will provide proof that an appeal is received and once it is submitted and forwarded to the Council; if approved, schedule both at the same time for a pre-hearing conference. Will schedule a PHC in June.

Docket No. 09-21 WtC - John Penaskovic

Subject: 4/17/09 Administrative Order, Administrative Order No. 09-041 WD

Presiding Officer: Chip Kimball

Recused: Larry Morse

Status: Appeal has been stayed until the agreement of July 1, 2010 is complete. Will request status in September.

Docket No. 09-22 WtC - John Penaskovic

Subject: 4/17/09 Administrative Order, Administrative Order No. 09-040 WD

Presiding Officer:

Recused: Larry Morse

Status: Appeal has been stayed until the agreement of July 1, 2010 is complete. Will request status in September.

Docket No. 10-04 WtC – Thomas J. Murray Appeal

Subject: 12/28/09 Denial of Application, Wetlands File No. 2007-00187

Presiding Officer: ~~Larry Morse~~ Chip Kimball (assigned by AGO on October 27, 2010)

Status: A 3rd PHC was held on February 23, 2011. The parties are in negotiations and agreed to have the clerk send a letter requesting status on May 23, 2011 (if the appeal is not withdrawn by then).

Docket No. 10-15 WtC – Steven and Mary Pruchansky

Subject: 6/10/10 Decision on Reconsideration, Wetlands File No. 2009-023600

Status: A PHC was held on February 23, 2011. The permit has been issued and the agent will withdraw the appeal. A status request will be sent.

V. Misc.

3/31/09 Request for Declaratory Ruling filed by Mr. Goodwin

Councilor Morse to finish.

5. **Old Business** -

6. **New Business** -

7. **Next Meeting** – Next meeting will be Tuesday, May 10, 2011.

8. **Adjournment**

- ***Councilor Morse made a motion to adjourn, second by Councilor Thompson. Motion passed unanimously.***

